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Senate

The Senate met at 8:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Sovereign Lord, we magnify Your Name. Your fairness is intertwined with everything You do. You possess absolute purity, holiness, and justice.

Bless the Members of this legislative body. Encourage them when courage fails, and comfort them when comfort flees. Lift them when they fall, and set their feet on the path of Your providence. Give them new hope when they feel hopeless, and lighten the darkness when they feel despair.

We pray for those who mourn, particularly the families of former Senators Hecht and Bentsen.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. MCCONNELL. Mr. President, this morning we are getting an early start, and we will shortly resume debate on the immigration bill. In just a mo-

ment, I will offer an amendment relating to photo identifications. The time until 9:30 a.m. will be equally divided for debate on that amendment. At 9:30, we will proceed to a rollcall vote on the McConnell amendment. That vote will be followed by a vote on invoking cloture on the comprehensive immigration bill. Following that cloture vote, the Senate will recess to attend a joint meeting with the House to hear an address by the Prime Minister of Israel.

Obviously, we expect another full day considering immigration-related amendments, and we will have rollcalls periodically all day.

MINE IMPROVEMENT AND NEW EMERGENCY RESPONSE ACT OF 2006

Mr. MCCONNELL. Mr. President, this is an important coal mine safety bill which has been cleared on both sides of the aisle.

I commend Senator KENNEDY and Senator ENZI for their extraordinary effort in putting this measure together on a broad bipartisan basis. As I indicated, it has been cleared on both sides of the aisle. It is time to pass this measure and hope that the House will act in short order.

Therefore, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 439, S. 2803.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2803) to amend the Federal Mine Safety and Health Act of 1977 to improve the safety of mines and mining.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mine Improvement and New Emergency Response Act of 2006" or the "MINER Act".

SEC. 2. EMERGENCY RESPONSE.

Section 316 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 876) is amended—

(1) in the section heading by adding at the end the following: "AND EMERGENCY RESPONSE PLANS";

(2) by striking "Telephone" and inserting "(a) IN GENERAL.—Telephone"; and

(3) by adding at the end the following:

"(b) ACCIDENT PREPAREDNESS AND RESPONSE.—

"(1) IN GENERAL.—Each underground coal mine operator shall carry out on a continuing basis a program to improve accident preparedness and response at each mine.

"(2) RESPONSE AND PREPAREDNESS PLAN.—

"(A) IN GENERAL.—Not later than 60 days after the date of enactment of the Mine Improvement and New Emergency Response Act of 2006, each underground coal mine operator shall develop and adopt a written accident response plan that complies with this subsection with respect to each mine of the operator, and periodically update such plans to reflect changes in operations in the mine, advances in technology, or other relevant considerations. Each such operator shall make the accident response plan available to the miners and the miners' representatives.

"(B) PLAN REQUIREMENTS.—An accident response plan under subparagraph (A) shall—

"(i) provide for the evacuation of all individuals endangered by an emergency; and

"(ii) provide for the maintenance of individuals trapped underground in the event that miners are not able to evacuate the mine.

"(C) PLAN APPROVAL.—The accident response plan under subparagraph (A) shall be subject to review and approval by the Secretary. In determining whether to approve a particular plan the Secretary shall take into consideration all comments submitted by miners or their representatives. Approved plans shall—

"(i) afford miners a level of safety protection at least consistent with the existing standards, including standards mandated by law and regulation;

"(ii) reflect the most recent credible scientific research;

"(iii) be technologically feasible, make use of current commercially available technology, and account for the specific physical characteristics of the mine; and

"(iv) reflect the improvements in mine safety gained from experience under this Act and other worker safety and health laws.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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“(D) **PLAN REVIEW.**—The accident response plan under subparagraph (A) shall be reviewed periodically, but at least every 6 months, by the Secretary. In such periodic reviews, the Secretary shall consider all comments submitted by miners or miners’ representatives and intervening advancements in science and technology that could be implemented to enhance miners’ ability to evacuate or otherwise survive in an emergency.

“(E) **PLAN CONTENT—GENERAL REQUIREMENTS.**—To be approved under subparagraph (C), an accident response plan shall include the following:

“(i) **POST-ACCIDENT COMMUNICATIONS.**—The plan shall provide for a redundant means of communication with the surface for persons underground, such as secondary telephone or equivalent two-way communication.

“(ii) **POST-ACCIDENT TRACKING.**—Consistent with commercially available technology and with the physical constraints, if any, of the mine, the plan shall provide for above ground personnel to determine the current, or immediately pre-accident, location of all underground personnel. Any system so utilized shall be functional, reliable, and calculated to remain serviceable in a post-accident setting.

“(iii) **POST-ACCIDENT BREATHABLE AIR.**—The plan shall provide for—

“(I) emergency supplies of breathable air for individuals trapped underground sufficient to maintain such individuals for a sustained period of time;

“(II) in addition to the 2 hours of breathable air per miner required by law under the emergency temporary standard as of the day before the date of enactment of the Mine Improvement and New Emergency Response Act of 2006, caches of self-rescuers providing in the aggregate not less than 2 hours per miner to be kept in escapeways from the deepest work area to the surface at a distance of no further than an average miner could walk in 30 minutes;

“(III) a maintenance schedule for checking the reliability of self rescuers, retiring older self-rescuers first, and introducing new self-rescuer technology, such as units with interchangeable air or oxygen cylinders not requiring doffing to replenish airflow and units with supplies of greater than 60 minutes, as they are approved by the Administration and become available on the market; and

“(IV) training for each miner in proper procedures for donning self-rescuers, switching from one unit to another, and ensuring a proper fit.

“(iv) **POST-ACCIDENT LIFELINES.**—The plan shall provide for the use of flame-resistant directional lifelines or equivalent systems in escapeways to enable evacuation. The flame-resistance requirement of this clause shall apply upon the replacement of existing lifelines, or, in the case of lifelines in working sections, upon the earlier of the replacement of such lifelines or 3 years after the date of enactment of the Mine Improvement and New Emergency Response Act of 2006.

“(v) **TRAINING.**—The plan shall provide a training program for emergency procedures described in the plan which will not diminish the requirements for mandatory health and safety training currently required under section 115.

“(vi) **LOCAL COORDINATION.**—The plan shall set out procedures for coordination and communication between the operator, mine rescue teams, and local emergency response personnel and make provisions for familiarizing local rescue personnel with surface functions that may be required in the course of mine rescue work.

“(F) **PLAN CONTENT—SPECIFIC REQUIREMENTS.**—

“(i) **IN GENERAL.**—In addition to the content requirements contained in subparagraph (E), and subject to the considerations contained in subparagraph (C), the Secretary may make additional plan requirements with respect to any of the content matters.

“(ii) **POST ACCIDENT COMMUNICATIONS.**—Not later than 3 years after the date of enactment of

the Mine Improvement and New Emergency Response Act of 2006, a plan shall, to be approved, provide for post accident communication between underground and surface personnel via a wireless two-way medium, and provide for an electronic tracking system permitting surface personnel to determine the location of any persons trapped underground or set forth within the plan the reasons such provisions can not be adopted. Where such plan sets forth the reasons such provisions can not be adopted, the plan shall also set forth the operator’s alternative means of compliance. Such alternative shall approximate, as closely as possible, the degree of functional utility and safety protection provided by the wireless two-way medium and tracking system referred to in this subpart.

“(G) **PLAN DISPUTE RESOLUTION.**—

“(i) **IN GENERAL.**—Any dispute between the Secretary and an operator with respect to the content of the operator’s plan or any refusal by the Secretary to approve such a plan shall be resolved on an expedited basis.

“(ii) **DISPUTES.**—In the event of a dispute or refusal described in clause (i), the Secretary shall issue a citation which shall be immediately referred to a Commission Administrative Law Judge. The Secretary and the operator shall submit all relevant material regarding the dispute to the Administrative Law Judge within 15 days of the date of the referral. The Administrative Law Judge shall render his or her decision with respect to the plan content dispute within 15 days of the receipt of the submission.

“(iii) **FURTHER APPEALS.**—A party adversely affected by a decision under clause (ii) may pursue all further available appeal rights with respect to the citation involved, except that inclusion of the disputed provision in the plan will not be limited by such appeal unless such relief is requested by the operator and permitted by the Administrative Law Judge.

“(H) **MAINTAINING PROTECTIONS FOR MINERS.**—Notwithstanding any other provision of this Act, nothing in this section, and no response and preparedness plan developed under this section, shall be approved if it reduces the protection afforded miners by an existing mandatory health or safety standard.”.

SEC. 3. INCIDENT COMMAND AND CONTROL.

Title I of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 811 et seq.) is amended by adding at the end the following:

“SEC. 116. LIMITATION ON CERTAIN LIABILITY FOR RESCUE OPERATIONS.

“(a) **IN GENERAL.**—No person shall bring an action against any covered individual or his or her regular employer for property damage or an injury (or death) sustained as a result of carrying out activities relating to mine accident rescue or recovery operations. This subsection shall not apply where the action that is alleged to result in the property damages or injury (or death) was the result of gross negligence, reckless conduct, or illegal conduct or, where the regular employer (as such term is used in this Act) is the operator of the mine at which the rescue activity takes place. Nothing in this section shall be construed to preempt State workers’ compensation laws.

“(b) **COVERED INDIVIDUAL.**—For purposes of subsection (a), the term ‘covered individual’ means an individual—

“(1) who is a member of a mine rescue team or who is otherwise a volunteer with respect to a mine accident; and

“(2) who is carrying out activities relating to mine accident rescue or recovery operations.

“(c) **REGULAR EMPLOYER.**—For purposes of subsection (a), the term ‘regular employer’ means the entity that is the covered employee’s legal or statutory employer pursuant to applicable State law.”.

SEC. 4. MINE RESCUE TEAMS.

Section 115(e) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 825(e)) is amended—

(1) by inserting “(1)” after the subsection designation; and

(2) by adding at the end the following:

“(2)(A) The Secretary shall issue regulations with regard to mine rescue teams which shall be finalized and in effect not later than 18 months after the date of enactment of the Mine Improvement and New Emergency Response Act of 2006.

“(B) Such regulations shall provide for the following:

“(i) That such regulations shall not be construed to waive operator training requirements applicable to existing mine rescue teams.

“(ii) That the Mine Safety and Health Administration shall establish, and update every 5 years thereafter, criteria to certify the qualifications of mine rescue teams.

“(iii)(I) That the operator of each underground coal mine with more than 36 employees—

“(aa) have an employee knowledgeable in mine emergency response who is employed at the mine on each shift at each underground mine; and

“(bb) make available two certified mine rescue teams whose members—

“(AA) are familiar with the operations of such coal mine;

“(BB) participate at least annually in two local mine rescue contests;

“(CC) participate at least annually in mine rescue training at the underground coal mine covered by the mine rescue team; and

“(DD) are available at the mine within one hour ground travel time from the mine rescue station.

“(II)(aa) For the purpose of complying with subclause (I), an operator shall employ one team that is either an individual mine site mine rescue team or a composite team as provided for in item (bb)(BB).

“(bb) The following options may be used by an operator to comply with the requirements of item (aa):

“(AA) An individual mine-site mine rescue team.

“(BB) A multi-employer composite team that is made up of team members who are knowledgeable about the operations and ventilation of the covered mines and who train on a semi-annual basis at the covered underground coal mine—

“(aaa) which provides coverage for multiple operators that have team members which include at least two active employees from each of the covered mines;

“(bbb) which provides coverage for multiple mines owned by the same operator which members include at least two active employees from each mine; or

“(ccc) which is a State-sponsored mine rescue team comprised of at least two active employees from each of the covered mines.

“(CC) A commercial mine rescue team provided by contract through a third-party vendor or mine rescue team provided by another coal company, if such team—

“(aaa) trains on a quarterly basis at covered underground coal mines;

“(bbb) is knowledgeable about the operations and ventilation of the covered mines; and

“(ccc) is comprised of individuals with a minimum of 3 years underground coal mine experience that shall have occurred within the 10-year period preceding their employment on the contract mine rescue team.

“(DD) A State-sponsored team made up of State employees.

“(iv) That the operator of each underground coal mine with 36 or less employees shall—

“(I) have an employee on each shift who is knowledgeable in mine emergency responses; and

“(II) make available two certified mine rescue teams whose members—

“(aa) are familiar with the operations of such coal mine;

“(bb) participate at least annually in two local mine rescue contests;

“(cc) participate at least semi-annually in mine rescue training at the underground coal mine covered by the mine rescue team;

“(dd) are available at the mine within one hour ground travel time from the mine rescue station;

“(ee) are knowledgeable about the operations and ventilation of the covered mines; and

“(ff) are comprised of individuals with a minimum of 3 years underground coal mine experience that shall have occurred within the 10-year period preceding their employment on the contract mine rescue team.”.

SEC. 5. PROMPT INCIDENT NOTIFICATION.

(a) IN GENERAL.—Section 103(j) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 813(j)) is amended by inserting after the first sentence, the following: “For purposes of the preceding sentence, the notification required shall be provided by the operator within 15 minutes of the time at which the operator realizes that the death of an individual at the mine, or an injury or entrapment of an individual at the mine which has a reasonable potential to cause death, has occurred.”.

(b) PENALTY.—Section 110(a) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820(a)) is amended—

(1) by striking “The operator” and inserting “(1) The operator”; and

(2) by adding at the end the following:

“(2) The operator of a coal or other mine who fails to provide timely notification to the Secretary as required under section 103(j) (relating to the 15 minute requirement) shall be assessed a civil penalty by the Secretary of not less than \$5,000 and not more than \$60,000.”.

SEC. 6. NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH.

(a) GRANTS.—Section 22 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 671) is amended by adding at the end the following:

“(h) OFFICE OF MINE SAFETY AND HEALTH.—

“(1) IN GENERAL.—There shall be permanently established within the Institute an Office of Mine Safety and Health which shall be administered by an Associate Director to be appointed by the Director.

“(2) PURPOSE.—The purpose of the Office is to enhance the development of new mine safety technology and technological applications and to expedite the commercial availability and implementation of such technology in mining environments.

“(3) FUNCTIONS.—In addition to all purposes and authorities provided for under this section, the Office of Mine Safety and Health shall be responsible for research, development, and testing of new technologies and equipment designed to enhance mine safety and health. To carry out such functions the Director of the Institute, acting through the Office, shall have the authority to—

“(A) award competitive grants to institutions and private entities to encourage the development and manufacture of mine safety equipment;

“(B) award contracts to educational institutions or private laboratories for the performance of product testing or related work with respect to new mine technology and equipment; and

“(C) establish an interagency working group as provided for in paragraph (5).

“(4) GRANT AUTHORITY.—To be eligible to receive a grant under the authority provided for under paragraph (3)(A), an entity or institution shall—

“(A) submit to the Director of the Institute an application at such time, in such manner, and containing such information as the Director may require; and

“(B) include in the application under subparagraph (A), a description of the mine safety equipment to be developed and manufactured under the grant and a description of the reasons that such equipment would otherwise not be developed or manufactured, including reasons re-

lating to the limited potential commercial market for such equipment.

“(5) INTERAGENCY WORKING GROUP.—

“(A) ESTABLISHMENT.—The Director of the Institute, in carrying out paragraph (3)(D) shall establish an interagency working group to share technology and technological research and developments that could be utilized to enhance mine safety and accident response.

“(B) MEMBERSHIP.—The working group under subparagraph (A) shall be chaired by the Associate Director of the Office who shall appoint the members of the working group, which may include representatives of other Federal agencies or departments as determined appropriate by the Associate Director.

“(C) DUTIES.—The working group under subparagraph (A) shall conduct an evaluation of research conducted by, and the technological developments of, agencies and departments who are represented on the working group that may have applicability to mine safety and accident response and make recommendations to the Director for the further development and eventual implementation of such technology.

“(6) ANNUAL REPORT.—Not later than 1 year after the establishment of the Office under this subsection, and annually thereafter, the Director of the Institute shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives a report that, with respect to the year involved, describes the new mine safety technologies and equipment that have been studied, tested, and certified for use, and with respect to those instances of technologies and equipment that have been considered but not yet certified for use, the reasons therefor.

“(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, such sums as may be necessary to enable the Institute and the Office of Mine Safety and Health to carry out this subsection.”.

SEC. 7. REQUIREMENT CONCERNING FAMILY LIABILITIES.

The Secretary of Labor shall establish a policy that—

(1) requires the temporary assignment of an individual Department of Labor official to be a liaison between the Department and the families of victims of mine tragedies involving multiple deaths;

(2) requires the Mine Safety and Health Administration to be as responsive as possible to requests from the families of mine accident victims for information relating to mine accidents; and

(3) requires that in such accidents, that the Mine Safety and Health Administration shall serve as the primary communicator with the operator, miners' families, the press and the public.

SEC. 8. PENALTIES.

(a) IN GENERAL.—Section 110 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820) is amended—

(1) in subsection (a)—

(A) by inserting “(1)” after the subsection designation; and

(B) by adding at the end the following:

“(2) Any operator who willfully violates a mandatory health or safety standard, or knowingly violates or fails or refuses to comply with any order issued under section 104 and section 107, or any order incorporated in a final decision issued under this title, except an order incorporated in a decision under paragraph (1) or section 105(c), shall, upon conviction, be punished by a fine of not more than \$250,000, or by imprisonment for not more than one year, or by both, except that if the conviction is for a violation committed after the first conviction of such operator under this Act, punishment shall be by a fine of not more than \$500,000, or by imprisonment for not more than five years, or both.

“(3)(A) The minimum penalty for any citation or order issued under section 104(d)(1) shall be \$2,000.

“(B) The minimum penalty for any order issued under section 104(d)(2) shall be \$4,000.

“(4) Nothing in this subsection shall be construed to prevent an operator from obtaining a review, in accordance with section 106, of an order imposing a penalty described in this subsection. If a court, in making such review, sustains the order, the court shall apply at least the minimum penalties required under this subsection.”; and

(2) by adding at the end of subsection (b) the following: “Violations under this section that are deemed to be flagrant may be assessed a civil penalty of not more than \$220,000. For purposes of the preceding sentence, the term ‘flagrant’ with respect to a violation means a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a mandatory health or safety standard that substantially and proximately caused, or reasonably could have been expected to cause, death or serious bodily injury.”.

(b) REGULATIONS.—Not later than December 30, 2006, the Secretary of Labor shall promulgate final regulations with respect to penalties.

SEC. 9. FINE COLLECTIONS.

Section 108(a)(1)(A) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 818(a)(1)(A)) is amended by inserting before the comma, the following: “, or fails or refuses to comply with any order or decision, including a civil penalty assessment order, that is issued under this Act”.

SEC. 10. SEALING OF ABANDONED AREAS.

Not later than 18 months after the issuance by the Mine Safety and Health Administration of a final report on the Sago Mine accident or the date of enactment of the Mine Improvement and New Emergency Response Act of 2006, whichever occurs earlier, the Secretary of Labor shall finalize mandatory health and safety standards relating to the sealing of abandoned areas in underground coal mines. Such health and safety standards shall provide for an increase in the 20 psi standard currently set forth in section 75.335(a)(2) of title 30, Code of Federal Regulations.

SEC. 11. TECHNICAL STUDY PANEL.

Title V of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 951 et seq.) is amended by adding at the end the following:

“SEC. 514. TECHNICAL STUDY PANEL.

“(a) ESTABLISHMENT.—There is established a Technical Study Panel (referred to in this section as the ‘Panel’) which shall provide independent scientific and engineering review and recommendations with respect to the utilization of belt air and the composition and fire retardant properties of belt materials in underground coal mining.

“(b) MEMBERSHIP.—The Panel shall be composed of—

“(1) two individuals to be appointed by the Secretary of Health and Human Services, in consultation with the Director of the National Institute for Occupational Safety and Health and the Associate Director of the Office of Mine Safety;

“(2) two individuals to be appointed by the Secretary of Labor, in consultation with the Assistant Secretary for Mine Safety and Health; and

“(3) two individuals, one to be appointed jointly by the majority leaders of the Senate and House of Representatives and one to be appointed jointly by the minority leader of the Senate and House of Representatives, each to be appointed prior to the sine die adjournment of the second session of the 109th Congress.

“(c) QUALIFICATIONS.—Four of the six individuals appointed to the Panel under subsection (b) shall possess a masters or doctoral level degree in mining engineering or another scientific field demonstrably related to the subject of the report. No individual appointed to the Panel shall be an employee of any coal or other mine, or of

any labor organization, or of any State or Federal agency primarily responsible for regulating the mining industry.

“(d) REPORT.—

“(1) IN GENERAL.—Not later than 1 year after the date on which all members of the Panel are appointed under subsection (b), the Panel shall prepare and submit to the Secretary of Labor, the Secretary of Health and Human Services, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives a report concerning the utilization of belt air and the composition and fire retardant properties of belt materials in underground coal mining.

“(2) RESPONSE BY SECRETARY.—Not later than 180 days after the receipt of the report under paragraph (1), the Secretary of Labor shall provide a response to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives containing a description of the actions, if any, that the Secretary intends to take based upon the report, including proposing regulatory changes, and the reasons for such actions.

“(e) COMPENSATION.—Members appointed to the panel, while carrying out the duties of the Panel shall be entitled to receive compensation, per diem in lieu of subsistence, and travel expenses in the same manner and under the same conditions as that prescribed under section 208(c) of the Public Health Service Act.”.

SEC. 12. SCHOLARSHIPS.

Title V of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 951 et seq.), as amended by section 11, is further amended by adding at the end the following:

“SEC. 515. SCHOLARSHIPS.

“(a) ESTABLISHMENT.—The Secretary of Education (referred to in this section as the ‘Secretary’), in consultation with the Secretary of Labor and the Secretary of Health and Human Services, shall establish a program to provide scholarships to eligible individuals to increase the skilled workforce for both private sector coal mine operators and mine safety inspectors and other regulatory personnel for the Mine Safety and Health Administration.

“(b) FUNDAMENTAL SKILLS SCHOLARSHIPS.—

“(1) IN GENERAL.—Under the program under subsection (a), the Secretary may award scholarship to fully or partially pay the tuition costs of eligible individuals enrolled in 2-year associate’s degree programs at community colleges or other colleges and universities that focus on providing the fundamental skills and training that is of immediate use to a beginning coal miner.

“(2) SKILLS.—The skills described in paragraph (1) shall include basic math, basic health and safety, business principles, management and supervisory skills, skills related to electric circuitry, skills related to heavy equipment operations, and skills related to communications.

“(3) ELIGIBILITY.—To be eligible to receive a scholarship under this subsection an individual shall—

“(A) have a high school diploma or a GED;

“(B) have at least 2 years experience in full-time employment in mining or mining-related activities;

“(C) submit to the Secretary an application at such time, in such manner, and containing such information; and

“(D) demonstrate an interest in working in the field of mining and performing an internship with the Mine Safety and Health Administration or the National Institute for Occupational Safety and Health Office of Mine Safety.

“(c) MINE SAFETY INSPECTOR SCHOLARSHIPS.—

“(1) IN GENERAL.—Under the program under subsection (a), the Secretary may award scholarship to fully or partially pay the tuition costs of eligible individuals enrolled in undergraduate bachelor’s degree programs at accredited col-

leges or universities that provide the skills needed to become mine safety inspectors.

“(2) SKILLS.—The skills described in paragraph (1) include skills developed through programs leading to a degree in mining engineering, civil engineering, mechanical engineering, electrical engineering, industrial engineering, environmental engineering, industrial hygiene, occupational health and safety, geology, chemistry, or other fields of study related to mine safety and health work.

“(3) ELIGIBILITY.—To be eligible to receive a scholarship under this subsection an individual shall—

“(A) have a high school diploma or a GED;

“(B) have at least 5 years experience in full-time employment in mining or mining-related activities;

“(C) submit to the Secretary an application at such time, in such manner, and containing such information; and

“(D) agree to be employed for a period of at least 5 years at the Mine Safety and Health Administration or, to repay, on a pro-rated basis, the funds received under this program, plus interest, at a rate established by the Secretary upon the issuance of the scholarship.

“(d) ADVANCED RESEARCH SCHOLARSHIPS.—

“(1) IN GENERAL.—Under the program under subsection (a), the Secretary may award scholarships to fully or partially pay the tuition costs of eligible individuals enrolled in undergraduate bachelor’s degree, masters degree, and Ph.D. degree programs at accredited colleges or universities that provide the skills needed to augment and advance research in mine safety and to broaden, improve, and expand the universe of candidates for mine safety inspector and other regulatory positions in the Mine Safety and Health Administration.

“(2) SKILLS.—The skills described in paragraph (1) include skills developed through programs leading to a degree in mining engineering, civil engineering, mechanical engineering, electrical engineering, industrial engineering, environmental engineering, industrial hygiene, occupational health and safety, geology, chemistry, or other fields of study related to mine safety and health work.

“(3) ELIGIBILITY.—To be eligible to receive a scholarship under this subsection an individual shall—

“(A) have a bachelor’s degree or equivalent from an accredited 4-year institution;

“(B) have at least 5 years experience in full-time employment in underground mining or mining-related activities; and

“(C) submit to the Secretary an application at such time, in such manner, and containing such information.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.”.

SEC. 13. RESEARCH CONCERNING REFUGE ALTERNATIVES.

(a) IN GENERAL.—The National Institute of Occupational Safety and Health shall provide for the conduct of research, including field tests, concerning the utility, practicality, survivability, and cost of various refuge alternatives in an underground coal mine environment, including commercially-available portable refuge chambers.

(b) REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the National Institute for Occupational Safety and Health shall prepare and submit to the Secretary of Labor, the Secretary of Health and Human Services, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives a report concerning the results of the research conducted under subsection (a), including any field tests.

(2) RESPONSE BY SECRETARY.—Not later than 180 days after the receipt of the report under

paragraph (1), the Secretary of Labor shall provide a response to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives containing a description of the actions, if any, that the Secretary intends to take based upon the report, including proposing regulatory changes, and the reasons for such actions.

SEC. 14. BROOKWOOD-SAGO MINE SAFETY GRANTS.

(a) IN GENERAL.—The Secretary of Labor shall establish a program to award competitive grants for education and training, to be known as Brookwood-Sago Mine Safety Grants, to carry out the purposes of this section.

(b) PURPOSES.—It is the purpose of this section, to provide for the funding of education and training programs to better identify, avoid, and prevent unsafe working conditions in and around mines.

(c) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

(1) be a public or private nonprofit entity; and

(2) submit to the Secretary of Labor an application at such time, in such manner, and containing such information as the Secretary may require.

(d) USE OF FUNDS.—Amounts received under a grant under this section shall be used to establish and implement education and training programs, or to develop training materials for employers and miners, concerning safety and health topics in mines, as determined appropriate by the Mine Safety and Health Administration.

(e) AWARDING OF GRANTS.—

(1) ANNUAL BASIS.—Grants under this section shall be awarded on an annual basis.

(2) SPECIAL EMPHASIS.—In awarding grants under this section, the Secretary of Labor shall give special emphasis to programs and materials that target workers in smaller mines, including training miners and employers about new Mine Safety and Health Administration standards, high risk activities, or hazards identified by such Administration.

(3) PRIORITY.—In awarding grants under this section, the Secretary of Labor shall give priority to the funding of pilot and demonstration projects that the Secretary determines will provide opportunities for broad applicability for mine safety.

(f) EVALUATION.—The Secretary of Labor shall use not less than 1 percent of the funds made available to carry out this section in a fiscal year to conduct evaluations of the projects funded under grants under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year, such sums as may be necessary to carry out this section.

● Mr. ENZI. Mr. President, I rise today to voice my support for the Mine Improvement and New Emergency Response Act of 2006. This legislation, The MINER Act, represents the most comprehensive overhaul of our Nation’s mine safety laws in a generation.

S. 2803, was unanimously reported out last week by the Committee on Health, Education, Labor, and Pensions. It is the product of a truly bipartisan effort undertaken with the single goal of improving the safety of our Nation’s miners. I would like to thank Senator KENNEDY, the ranking member of the HELP Committee, Senators ISAKSON and MURRAY, the chair and ranking member of the Subcommittee on Employment and Workplace Safety; and Senators BYRD and ROCKEFELLER of West Virginia for their long and tireless efforts in fashioning this legislation. I would also like to express my

thanks to Senators DEWINE, SANTORUM, SPECTER, MCCONNELL, and BUNNING for their cosponsorship of this legislation.

This year we have witnessed a series of tragic losses in the coal mining community. The year began with the deadly accidents at the Sago and Alma mines in West Virginia. It continued this weekend with the deaths of five miners in a coal mine explosion in eastern Kentucky. Nothing we can do here can bring back those whose lives have been lost. We can, however, best honor those who have lost their lives by making such accidents less likely in the future, and making it more likely that miners will survive such accidents when they do occur. That is the aim of the MINER Act.

The MINER Act would require that coal mines develop and continuously update emergency response and preparedness plans that are designed to make mining accidents more survivable. These plans will incorporate technological advances designed to enhance surface to underground communication, to aid in the location of underground personnel, and to provide additional breathable air for miners that are trapped underground. The legislation codifies the requirements for mine rescue teams, affords protections for these heroic volunteers, and ensures that they, and other necessary Federal resources, will be promptly called upon when an emergency occurs.

The bill further recognizes that the development of mine safety technology, and the education and training of all those who work in the industry are vital elements in the effort to improve mine safety. Thus, the legislation enhances the mine safety research and development efforts of the National Institute of Occupational Safety and Health. It encourages private sector technology development, and speeds the approval of new equipment. It also provides a mechanism for sharing technical research and development among Federal agencies. The bill will also provide grants for additional safety training, and scholarship funds for mine safety related education.

In addition, the legislation recognizes the fact that despite the tragedies of this year, the safety record in the mining industry has been a good one that continues to improve. This has been due to the concerted efforts of State and Federal regulators, mine employees, and mine operators, the vast majority of whom are serious and steadfast in meeting their workplace safety responsibilities. However, there are a few operators that fall outside the mold; thus, the legislation contains enhanced penalty provisions targeted at these few "bad actors."

Those who work in our Nation's mines play a vital role in our country's economic well-being and energy security. They deserve our best efforts to provide for their protection as they perform their often dangerous work. I believe that the MINER Act does make

major safety improvements that will better protect miners both today and in years to come.●

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the committee-reported amendment be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDENT pro tempore. Is there objection?

Mr. KENNEDY. Mr. President, I ask unanimous consent to be able to proceed for just 2 minutes on this issue.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I welcome the fact that the Senator from Kentucky has advanced this issue this morning and ensured that the legislation was going to be passed. I wish to pay tribute to my chairman, Senator ENZI. Within hours of the Sago mine disaster, he notified our committee that we would go as a committee down to visit the Sago mine. We spent hours with the families of Sago, came back immediately, had an informal hearing to get early reactions and responses about things that could be done immediately, and then structured a whole series of hearings. We had very extensive markups on those hearings.

This legislation has the strong support of the families and the strong support of the mine workers. I think it is a very clear indication that this Senate gives the highest possible priority to the workers and their families and safety and security.

We believe strongly that we should be tireless in pursuing new technologies which will provide additional kinds of safety and security to these miners. That process is outlined in the legislation. But this is a very clear message to the families that they are perhaps in the most dangerous undertaking which is absolutely essential in providing energy for our country. These are extraordinarily heroic men and women who work the mines. This Senate has responded, and we will respond to ensure to the extent legislatively we can that they will have safe and secure jobs.

I thank the Senator. I am grateful for the leadership of Senator ENZI.

Finally, during all of this period, we have been fortunate to have the tireless leadership of Senator ROBERT BYRD and JAY ROCKEFELLER. JAY ROCKEFELLER is recovering from a difficult operation, but he has been in constant touch with me and members of the committee and is following this legislation. Senator BYRD appeared before our committee, sat through the hearings, and has been instrumental in terms of developing the legislation and pressing and pushing us forward to make sure it is achieved.

I thank the Senator.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

● Mr. ROCKEFELLER. Mr. President, it is my great pleasure to commend my colleagues for their quick action today in taking up and passing S. 2803, the Mine Improvement and Emergency Response Act, or the MINER Act, of 2006.

In passing this important legislation, the Senate has set the stage for the most dramatic improvement in coal mine safety in a generation. Before we can celebrate significant improvements in our mine safety laws, we must encourage our colleagues in the House to act as quickly as they can to pass mine safety legislation so that it can be sent to the President for his signature.

The recent mining deaths in the Commonwealth of Kentucky—five over the weekend and one yesterday—lend further credence to the truism that mine safety laws are written in the blood of coal miners. We began this year with the tragic deaths of 12 men at Sago mine in Upshur County, WV. Before we could even comprehend that immense loss, two more West Virginia miners lost their lives at the Alma mine in Logan County. These men—and miners who paid the ultimate price this year in West Virginia's Longbranch No. 18, Black Castle, Candice No. 2, and Jacob No. 1 mines, as well as at mines in Kentucky, Utah, Alabama, and Maryland—went to work each day knowing full well that mining is inherently dangerous.

The miners who died knew—and the miners who still go to work each day understand—the risks they face in fueling the American economy and providing better lives for their families. We can do nothing that adequately honors our fallen miners, but we can give the families who continue to send their loved ones to work underground a better chance of seeing their miners come home safely at shift's end.

The MINER Act will bring into the mines new technology to help trapped miners breathe after an accident and enable them to get out or wait to be rescued. It will introduce new communications equipment into mines to allow miners underground to benefit from information known to those at the surface that could save their lives. This legislation will make it more certain that, if there is an accident, highly trained mine rescue teams are available and familiar with the mines where they will be called upon to save lives. It does not include every technology that I believe could be important to safeguarding miners as they do their work, but it is still groundbreaking legislation that addresses mine safety problems for the first time in a generation.

We could not have done this without the dedication and integrity of the distinguished chairman and ranking member of the Senate HELP Committee, MIKE ENZI and TED KENNEDY. Their understanding of the absolute necessity of tackling this issue made this legislation possible. I want to especially also thank Senators JOHNNY ISAKSON, PATTY MURRAY, and my colleague and Senior Senator, ROBERT C. BYRD. In the

several months since Sago and Alma became places all Americans know, the persistence of these Senators has been crucial in moving this legislation forward. We can only hope that this bill will prevent future tragedies that could make other coal communities into household words.●

Mr. KENNEDY. I am pleased that the Senate has passed the Mine Improvement and New Emergency Response Act today, and I commend Chairman ENZI, Senator ISAKSON, and Senator MURRAY for their dedication in pursuing these safety protections. I also commend Senator BYRD and Senator ROCKEFELLER, who have been tireless in insisting on improvements in mine safety. This bill is the most significant improvement in mine safety by Congress in a generation.

Today's action was clearly necessary. The year began with the shocking tragedies at the Sago and Alma mines in West Virginia, where 14 coal miners were killed. Tragedy struck again last weekend in Kentucky, where five coal miners were killed at the Darby mine in Harlan County.

We will learn more in the weeks ahead from the ongoing investigations of these disasters. But many lessons are already painfully clear. The miners who died could have survived with adequate oxygen. But, their self-rescue units didn't work, and they had to share precious oxygen with each other.

They also had no realistic way to let rescuers outside know where they were. At Sago, they resorted to banging on pipes with sledge hammers, wasting precious energy and oxygen. This should never have happened and we need to be sure that it doesn't happen again.

The bill requires every company to have a comprehensive emergency response plan, so that companies and miners will know ahead of time how to respond. The bill sets stronger minimum safety standards for oxygen supplies, communications, tracking, lifelines, and training, and also requires companies to continuously reevaluate the safety of their mines. They must adapt their safety response plans to changes in their mining operations and advances in mine safety technology. Safety must no longer be a topic that companies address only in the wake of a disaster or a government directive. Plans to improve safety must be an enforceable day-to-day obligation of every mining operation.

As we saw at Sago and Darby, the time to determine whether a mine's oxygen supply is reliable can't just be after a tragedy. To address the recurring problems with oxygen supplies, the bill requires companies to provide at least two hours of oxygen for every miner, plus additional oxygen along evacuation routes and for trapped miners awaiting rescue. Companies will be required to inspect and replace these units regularly, so that no miner has an oxygen pack that doesn't work.

All mines will be required to have back-up telephone lines immediately

available, and to adopt two-way wireless communications and electronic tracking systems as soon as possible. They will also have to install fire-resistant lifelines, to show miners the best way out in an emergency.

One of the most moving aspects of the Sago and Alma response was the outpouring of support from other miners around the country. They wanted to do everything they could to rescue their brothers and sisters trapped underground. This bill guarantees that every mine in the country will have a person on staff who knows the mine and is trained in emergency response. It strengthens requirements for training mine rescue teams. The teams will practice in the mines they monitor, so that the first time they go into a mine will not be during an emergency.

The bill also reduces the time required for a rescue team to reach a mine to one hour from the current two hours. By providing good Samaritan-type liability protection for mine rescue team members and their regular employers, this bill will encourage more miners to participate in mine rescue teams and more employers to support them.

Even if we don't know why the seal at Sago failed, we know that it did. The initial reports from Darby suggest that a seal also failed there. We don't need another tragedy caused by a failed seal to know that the standard for seals must be improved. Our standards for these protective barriers lag far behind other developed nations. That is why this bill requires the Mine Safety and Health Administration to issue a new regulation in 18 months to improve these standards.

We also need greater incentives to prevent accidents from happening. Too many mining companies have been paying fines that cost less than parking tickets. Under this bill, companies can no longer treat violations of health and safety laws as a cost of doing business. We impose substantial new minimum penalties on companies that put miners at risk and do not take their obligation seriously to provide a safe workplace. These new penalties escalate when companies continue to ignore their safety obligations. The bill also makes clear that MSHA has the authority to shut down a mine that refuses to pay its fines.

Research is an important part of safety. The Navy has technologies to communicate with submarines on the bottom of the ocean. NASA can talk to people on the Moon. It is time to bring mine safety technology into the 21st century too. Our bill creates an inter-agency task force so that NIOSH will have the benefit of the advances made by other industries and agencies. It also creates two competitive grant programs: one to encourage the development and manufacture of mine safety equipment that the private sector might not otherwise find economically viable, and another to educate and train employers and miners to better

identify, avoid, and prevent unsafe working conditions.

This bill is an important step in strengthening the response to mine emergencies. But there is more to be done. We have seen miners in other countries survive because of requirements that their mines have refuge chambers. Our bill requires MSHA and NIOSH to test refuge chambers to see if they should be used here to protect miners in a fire or explosion. It also addresses safety issues raised by ventilating mines with belt air, particularly the problem of fires on mine conveyor belts. The bill requires the Secretary of Labor to report to us on these problems, and I commend Senator ENZI and Senator ISAKSON for agreeing to work together and to hold hearings on these critical issues in the future.

We can't bring back the brave miners who have died this year. Today, however, we honor their memory by passing this legislation and we will honor them even more by following through to see that it is implemented as effectively as possible to make our mines safer.

The PRESIDENT pro tempore. Is there any further debate?

Without objection, the unanimous consent request is agreed to.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2803), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. McCONNELL. Mr. President, I have one further observation on the measure which we just passed.

I again congratulate the Senator from Massachusetts and Chairman ENZI for this important piece of legislation. This has been a tough few years in coal country—in Pennsylvania, West Virginia, and in Kentucky. As everyone knows, we just lost five miners last weekend. This legislation couldn't be more timely.

Again, I congratulate those on both sides of the aisle who made an important contribution to move this legislation out of the Senate and over to the House.

COMPREHENSIVE IMMIGRATION REFORM ACT OF 2006

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the Comprehensive Immigration Reform Act of 2006, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (S. 2611) to provide for comprehensive immigration reform and for other purposes.

The PRESIDENT pro tempore. Under the previous order, the time until 9:30 will be equally divided between the Senator from Kentucky, Mr. McCONNELL, and the Senator from Nevada, Mr. REID, or their designees.

AMENDMENT NO. 4085

Mr. McCONNELL. Mr. President, I call up amendment No. 4085.